

CLEARING THE AIR

or

How Fares The First Amendment -- Is It Alive and Well?

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I am indebted to my students, particularly Janet Lynn and James E. Smith, who helped me so much in this work.

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PREFACE

One problem faced by college populations and other groups trying to make inputs into the political system without professional training is that they have limited access to the mass media -- radio, television and the official press. The First Amendment to the U.S. Constitution is the victim. It was meant to guarantee debate under the assumption -- not problematic in 1791 -- that dissenting voices and divergent points of view would not be blacked out by centralized and monopolized channels of mass communication. It assumed that by protecting the word at the point of being uttered or printed, all points of view would have equal opportunity to secure an audience. Large or small audiences, then, would be a function primarily of the persuasiveness of the idea.

This is not the case today in mass society, depending as we now do on mass media of communication. That is why some of us find ourselves talking only to each other. That is why some resort to creating news by means of demonstrations, freaky behavior, and the like.

This handbook attempts to set forth some techniques for getting past the gatekeepers to the mass media that have unequal access to audiences. The booklet has been assembled by a group of college students and their professor who have been studying the sociology of public opinion. We are not what they call, these days, "professional communicators." We are not organized lobbyists. But we have studied the structure of the

media. We have a certain experience in our own community and have a certain degree of success there.

The owners of your local radio and television stations and your local newspaper are very likely to be card-carrying members of the silent majority. Even so, we hope that by letting you know your rights and privileges and by sharing with you our experiences, we can help you add to all efforts to re-establish a free press, both printed and broadcast, in your community.

We would welcome your comments. Please send them by letter, telephone or wire to:

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PREFACE TO THE SECOND EDITION

As this bulletin is being revised, our country has just witnessed a historic confrontation between the Federal government and the independent press. It is to the credit of our system of checks and balances that the independent press has been championed by the Supreme Court of the United States. I am referring to the attempt by the Department of Justice to exercise prior restraint over the publication of The Pentagon Papers.

The Supreme Court's decision of June 30, 1971, held that such prior censorship is repugnant to the spirit of the First Amendment. Not impossible; repugnant.

"Any system of prior restraints of expression comes to this court bearing a heavy presumption against its constitutional validity....The Government 'thus carries a heavy burden of showing justification for the enforcement of such restraint.' ...the Government had not met that burden." (Decision of the Supreme Court of the United States, as reported in The New York Times, July 1, 1971.

Another historic case is still pending. It concerns broadcast news. Dr. Frank Stanton, President of the Columbia Broadcasting System, is defying a congressional committee. The Special Subcommittee on Investigations of the House Interstate and Foreign Commerce Committee has subpoenaed CBS-News' outtakes of their broadcast documentary, The Selling of the Pentagon. Dr. Stanton has declared his intention to fight up to the Supreme Court the Committee's claim that Congress has the right to look over the shoulder of broadcast news. He has been held in contempt of Congress by the Subcommittee and again by the full Committee. Whether now the full House will support these votes remains to be seen. Dr. Stanton deserves recognition for his courage. If the case goes to the Supreme Court, he will have performed a service in

securing a needed ruling on whether broadcast news is to be exempted from certain First Amendment protections.

These titanic struggles result from precisely the kinds of tensions which the U.S. Constitution envisioned in 1791. Central government tries to exercise its enormous power to control the flow of information in order to protect its policies; a free people, if they are to engage in that open debate which is essential to self-rule, has an opposing "right to know." If Thomas Jefferson were alive today, he would recognize this conflict and these tensions. He would probably feel very much at home in evaluating the pro's and con's and arriving at a decision.

But Clearing the Air addresses itself to a related problem, never envisioned in 1791, which I do not think Thomas Jefferson would feel at home with. I am referring to the enormous power of private governments, represented by the Media Barons,* to control the flow of information. Today it is not only the central government which can muster the resources necessary to exercise such control. The television networks--along with their flagship stations, the affiliated stations they feed, their related media interests, the large advertisers with whom they are in an interdependent relationship, the advertising agencies and the research establishments that serve them all--these special interests have more power to disseminate or withhold information than any government ever had in the days our Constitution was drafted. They have a further power, never even dreamed of by early

* This useful phrase was coined by Nicholas Johnson, in "The Media Barons and the Public Interest," The Atlantic, June 1968.

governments or by the founding fathers. Because of television's vast power to penetrate into millions of homes and to join the family, so to speak, and because of the curiously compelling nature of television images and imagery, television-broadcast fare has the capacity to direct and change our total cultural environment.

It is not easy to think of an analogy. Suppose during the 195 years of this American republic, there had been just three high-speed printing presses in the country and just about 1,000 mimeograph machines. Suppose further that use of these facilities were controlled by private interests who permitted their presses to be used only by the highest bidders seeking the largest audiences. Such a situation would only roughly approximate the situation we face with our airwaves today.

The issue was expressed very succinctly by the man who just missed deserving the title of the Ralph Nader of the broadcasting industry.

"Tonight I want to discuss the importance of the television news medium to the American people. No nation depends more on the intelligent judgment of its citizens. No medium has a more profound influence over public opinion. Nowhere in our system are there fewer checks on vast power...

"The American people would rightly not tolerate this concentration of power in government....Is it not fair and relevant to question its concentration in the hands of a tiny, enclosed fraternity of privileged men elected by no one and enjoying a monopoly sanctioned and licensed by government?...

"As with other American institutions, perhaps it is time that the networks were made more responsive to the views of the nation and more responsive to the people they serve."

And further:

"I'm opposed to censorship of television or the press in any form. I don't care whether censorship is imposed by government or whether it results from management...by a little fraternity having similar social and political views."

The first quotation is from a speech made at a small regional party meeting on November 13, 1969 in Des Moines, Iowa, by the Vice President of the United States, Spiro Agnew; the second quotation is from another speech Mr. Agnew made a week later in Montgomery, Alabama.

But Mr. Agnew was not alerting the country to the monopolized and centralized structure of the information industry. He was attacking the news commentators whose views he does not happen to like.

Mr. Agnew chose as his targets to exemplify the evils of media domination, The Washington Post and The New York Times. Both news organizations are noted more for their outspoken anti-Administration editorial policies than for their structural domination of media outlets.*

More revealing--and more pertinent to the issue of media-domination that Mr. Agnew raised--are the media monopolies he neglected to mention. He did not mention The Chicago Tribune,** for example.

* The Post has three television stations, two radio stations and a news magazine; The New York Times has an AM-FM radio station which it is trying to sell. They are unworthy targets for the serious structural problem of monopoly over access which Mr. Agnew broached.

** The Chicago Tribune owns also Chicago Today. A 100 percent subsidiary of The Tribune Company is WGN-Continental Broadcasting Company which, in turn, is 100 percent owner of KDAL, Inc., licensee of KDAL-AM-TV, Duluth, Minnesota, and of WGN of Colorado, Inc., licensee of KWGN-TV, Denver. The Tribune Company owns 100 percent of News Syndicate Co., Inc. (New York Daily News). It is 100 percent owner of WPIX, Inc., licensee of WPIX-FM-TV, New York, N.Y. The license of WPIX-TV is currently under challenge for broadcasting phony news. WPIX, Inc. is also majority owner of Connecticut Broadcasting Co., Inc., licensee of WICC-AM, Bridgeport, Connecticut. The Tribune Co. is also owner of Gore Newspapers Co., publishers of the Fort Lauderdale (Florida) News; The Pompano Beach (Florida) Sun-Sentinel; the Orlando (Florida) Sentinel and Evening Star, and the Kissimmee (Florida) Osceola Sun.

He did not mention the kind of media-domination I face in the area of New York State I live in.*

Over two hundred years of law and tradition have alerted us as a nation to the tension between the government's wish to control the flow of information and the people's "right to know." Our laws and our traditions have not yet alerted us to the problem or provided us with the arms to handle the equally serious tension between private control of access to the channels with effectively disseminate news, culture and imagery, and the people's right to authenticity and heterogeneity in the views we get of ourselves and the world around us.

* The Syracuse Herald Journal, Herald-American and Post Standard are 100 percent owners of WSYR-AM-FM-TV. The stations are licensed to Newhouse Broadcasting Corp., 100 percent owned by the family of Samuel I. Newhouse who, through 100 percent individual ownership of Advance Publications, Inc. (publisher of the Staten Island Advance) indirectly owns: 100 percent of the Herald Co., publisher of the Syracuse Herald-Journal, Herald-American and Post Standard, the Birmingham (Alabama) News Company; WAPI-AM-FM-TV, licensed to Newhouse Broadcasting Co.; the St. Louis Globe Democrat, KTVI-TV, licensed to Newhouse Broadcasting Co.; the Patriot News Co., Harrisburg Pennsylvania, WTPA-FM-TV, licensed to Newhouse; Oregonian Publishing Co., Portland, Oregon; KOIN-AM-FM-TV licensed to Mount Hood Radio and Television Corporation, in turn 50 percent owned by Newhouse, and WSYE-TV, Elmira, New York, satellite of WSYR-TV, Syracuse, licensed to Newhouse Broadcasting Company. Samuel I. Newhouse through Advance Publications, Inc., also owns 100 percent of the following newspapers: The Jersey City (New Jersey) Journal; The Jamaica (New York) Long Island Press, the Newark (New Jersey) Star-Ledger; The Long Island (New York) Star Journal, the New Orleans (Louisiana) Times-Picayune and States Item, the Springfield (Massachusetts) Union, Daily News, and Sunday Republican; the Huntsville (Alabama) Times and News; the Cleveland (Ohio) Plain Dealer. Newhouse also owns 66 percent of Mobile (Alabama) Press-Register and 66 percent of the Pascagoula (Mississippi) Press; and 18.8 percent of the Denver (Colorado) Post, permittee of a UHF station (KHBC) at Denver. Advance Publications also owns 81 percent of the Conde-Nast Publications, Inc., New York City, which publishes Vogue and House and Garden magazines. (Source: Federal Communications Commission, Washington, D.C.: "Newspaper-Broadcast Joint Interests as of November 1, 1970." Mimeographed.)

FOREWORD

A free press is a beautiful thing. But it is a romantic notion where dissident and questioning viewpoints do not have even-handed access to the principal channels of communication.

Can an enlightened public opinion be formed by an electorate shopping among all the varied fare in the free marketplace of ideas and autonomously arriving at a judgment? Not if the gatekeepers to the mass media ensure that only those issues are publicly joined which are endorsed as "acceptable for controversy" by the complacent members of our society.

Think. Just how varied is the fare delivered by the mass media? What kind of coverage is given to dissident views compared with views that endorse the status quo?

The war in Southeast Asia is perhaps the most dramatic recent illustration of the dismal effects of this imbalance. If middle America has relied on its local hometown, monopoly newspaper, on weekly newsmagazines of wide circulation and on radio and television news, it is understandable that it took so many years for dissent on the war to be absolved of the charge, "unpatriotic." It is still not absolved of that charge in vast areas of the United States.

The problem these dissenting voices faced was not just how to be heard, but how to be heeded. The weight of mass media content over the years has discredited dissent and blacked out

divergent life-styles to such an extent that now -- even when the media may be trying to give fair coverage to anti-war views (as all too few are trying to do) the message can scarcely get through. I am not talking about getting agreement. I am talking about getting considered.

Campus groups are the television generation. They know very well how to get access to the mass press. The make news. That is, they do something that gatekeepers to the media will consider newsworthy. You know what that is. The war in Southeast Asia has only dramatized the imbalance of our media. There are many aspects of your life, your problems, the way you think and feel and react -- besides demonstrations, marches, riots and oddball behavior -- that are newsworthy. That the nation should have a chance to consider. But you don't stand a chance of getting a reasonable airing of your way of life and your perspective if you rely on the spontaneous "news judgment" of the editor or owner of your local newspaper or broadcast outlet to discover this.

These are not the only factors that perpetuate the institutional biases of the press. Even college newspapers and radio and television stations are not immune from similar charges. They stick close to the standard formats, varying their fare within narrow limits that are as stylized as the limits the mass media set for themselves. Rarely do you find a campus newspaper

or radio news department running columns or features that penetrate the subjects of greatest interest to the college students. Sex, you say? Yes, but what about grades and grading procedures? Fairness or unfairness by professors? Repetitive, trivial, dated materials? What about the brilliant lectures that -- were they delivered to an audience at professional meetings -- would have been covered in the national press?

True, some campuses have once-a-year wrap-up publications that give a rundown on courses and professors. But I am speaking of the day-to-day concerns about courses, professors and grading -- the "window to the world" that the press is supposed to provide but so often does not.

The mass press (and the college press, too) do not cover one of the most important yet untouched stories of our times: itself. As a professor of sociology teaching a course in Public Opinion, I often lecture on what I call "blackouts and brownouts" in the press. Since the death of A. J. Liebling* where are the newsmen who are doing this in the mass press?

It is our contention that if you wait for the press -- and I mean always the printed and broadcast press -- to do this by

* A.J. Liebling, may he rest in peace, used to have a section in The New Yorker Magazine, called, "The Wayward Press." (Notice he never had a column in the daily or weekly press on the subject.) The department, begun by Robert Benchley, analyzed the press's boo-boos. One of Liebling's books on the subject is still available. The Press, Ballantine Books, New York 1961 Paperback. Eugene Cervi's Rocky Mountain News (Denver, Colorado) is an exception, and I bow to him in this modest footnote. I note with regret that since the last 'printing' of this document, he too has passed on. And so the ranks dwindle.

itself, you'll wait a very long time. Forget it. The underground press is one safety valve, but it cannot begin to correct these institutional imbalances when it pits itself against the so-much-more weighty mass media.

Our suggestion is to bring group-pressure to bear upon the gatekeepers to the media so that you, as community members and substantial, enlightened citizens, can make your claim for your right to get your own ideas and messages included in the content of your media.

I am referring not only to bias in presentation of an event involving unpopular versus popular sides of a question. I am referring to a much more serious bias which reflects the institutional weight of our newspapers, radio and television outlets and their institutional vested interests.

Take The Wall Street Journal. It is an excellent paper, in my judgment. And it is specialized. It runs a column from time to time on page one, Tax Report, to serve its clients: businessmen and investors. The column covers Internal Revenue Service cases, informing WSJ readers of recent decisions they will be able to use to their tax advantage.

Do you know of a paper of mass circulation or a news magazine or a broadcasting outlet that provides equivalent news concerning recent decisions on draft advantages? Welfare advantages? We don't even have comparable terms in our language!

Even the stock market reports that we so take for granted reflect the bias stemming from where the gatekeepers sit in the social system. As a stockholder, my newspapers and broadcast media serve me daily by showing me opening and closing bids, the year's and the day's high and low on the stock exchange. As a housewife buying hamburger or detergent, I find no equivalent service but must rely on paid advertisements issued by the interested parties.

Gatekeepers to the media make the decisions on what gets in and what doesn't. They base these decisions on their informed, professional judgment of "newsworthiness" and "reader interest." I query whether this explains imbalances such as those discussed above. I suggest that the idea has never occurred to a news editor or a city editor or their (non-professional) equivalents in the broadcast media; or to a station owner or newspaper publisher.

I claim that it is good old sociology and economics that dictate these imbalances. Newspaper and station owners and managers do not have the same view of the world that you and I have. That young people have; or senior citizens; or Black people; or other minority group members: older people, women, poor people, college students, intellectuals... Editors and news managers may have good news judgment within a rather standard range of acceptable topics and traditional formats. But they do not press to the limits of what their boards of managers may tolerate even on those topics and formats. They know better. I think they also lack imagination to innovate new subjects, new viewpoints, new formats, new perspectives.

Take radio and television, for example. What earthly sense does it make to have a disc-jockey fielding inquiries and comments on a call-in show covering a variety of subjects on which he is no more expert than you? Why shouldn't community people have a chance to man those telephones once in a while? Why should a newspaper editor refuse to accept for publication anonymous letters to the editor while a radio station accepts calls from unidentified callers which are blithely beamed into millions of homes?

When panel shows are made up, wherein is it written that the so-called expert must always speak for his constituency? The director of the Housing Administration on housing conditions; the college president on how the campus is reacting to this or that; the union leader on hiring practices in his union (if, indeed, he ever gets on at all); the home economics specialist on "today's best buys." (Why not "today's worst buys?") A lawyer or a judge on civil rights; a policeman on law and order. You and I have a chance to be heard on these "shows"* only if we're caught for a fleeting moment by a newsman with a camera and microphone doing his bit for the 6 o'clock news at a non-event defined as a "news break." The same goes for a feature newspaper story.

* What a sad commentary on broadcast news and features that we call them "shows." And that newsmen and commentators who work in television must belong to the union of entertainers!

We middle and upper-middle-class intellectuals have access to very high-class tape recorders in our own homes these days. Why should we not have the opportunity to make our own radio programs and ask our local stations to broadcast them? It is possible now for community groups to make their own television features using 16 mm or even super eight film, or in college or high school television studies. At Cornell we even have available to be loaned to students -- like a book out of the library -- Sony portable videotape cameras that can be used to make television broadcasts. Why should we not make our own "shows" and have a chance to broadcast them over our local TV stations or over our community antenna systems?

Answers to such questions will probably be phrased in terms of your technical know-how, news judgment and professionalism. I maintain that this is open to question. I feel that community groups may not be able to do as well as the best newspaper, radio or TV production, but that many of us can do much better than the worst; and often better than the middling. We should be given a chance.

Dissent to the war and the remobilization of peace lobbying in many communities as a result of its extension into Cambodia has motivated us to get out this pamphlet now. But it applies to a general situation in the United States of America, not just the war. We feel that we, as citizens, have been deprived of

access to our own media. In the case of the airwaves, the outrage is compounded since our station owners utilize them by our sufferance. That does not get the newspapers off the hook. They are subsidized to the eyes and have been lobbying for years to exempt themselves from normal anti-trust regulations -- and will probably win in this Congress.* Remember, too, that many of our stations are owned by newspapers.

Yet the press has to date no positive obligation to encourage dissemination of discussion and controversy, or to promote the First Amendment and Bill of Rights freedoms. They have no positive obligation to provide the public with the varied fare that is necessary if debate is to be real, that is necessary if democracy is not to be an "image" of a packaged and sold product. We must do this ourselves.

Your media have converted you into a commodity -- a passive recipient of commercial messages. In their parlance, you are a statistic in the "audience to be delivered" to the advertiser. This will not change, in my judgment, unless all of us statistics lobby the media, just as we lobby elected representatives, to allow us to free our press from the paralysis of its own institutional structure.

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* They won. The so-called Newspaper Preservation Act was passed with little or no fanfare in the press. Two newspapers in a single town can now combine their production and advertising departments to reduce costs -- and to make the entry of a competitor virtually impossible.